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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,786	09/10/2003	Ralf Boening	DKT02118	5583
7590	10/29/2004		EXAMINER	NGUYEN, NINH H
Borg Warner Inc. Patent Department Powertrain Technical Center 3800 Automation Ave., Ste. 100 Auburn Hills, MI 48326-1782			ART UNIT	PAPER NUMBER
			3745	
DATE MAILED: 10/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/659,786	BOENING, RALF
Examiner	Art Unit	
Ninh H. Nguyen	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 11-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

*Specification*

1. The abstract of the disclosure is objected to because of the legal term “means” on line 11. Correction is required. See MPEP § 608.01(b).

*Claim Re-numbering*

The newly added claims 1-11 have been renumbered as claims 11-21, respectively according to rule 1.126.

*Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, there is a lack of antecedent basis for the limitation “the turbine housing” on lines 25 and 28 of the claim.

In addition, lines 24-28 of claim 11 recites the limitations “wherein the central opening (53) or a central outlet pipe (10) of the turbine housing (2) is insertable into a sleeve (45) such that the sleeve (45) is insertable into said central opening (53) for fixing the guiding grid in the turbine housing (2) inclusive of the guiding grid in its central outlet (10)”. It is unclear as to how

the central opening is insertable into a sleeve and then, the sleeve is inserted into the central opening.

Claims 2-18 are indefinite as being dependent on claim 1.

Claim 19 is indefinite because it is unclear whether "fixing means" on lines 34 and 40 are the same or not. Furthermore, it is unclear "the axial position relative to the housing" as recited on line 40-41 of the claim refers to the which component.

Claims 20 and 21 are indefinite as being dependent on claim 19.

***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

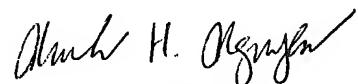
Berg (4,657,476) is cited to show a variable area turbine.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (703) 305-0061 or (571) 272-4823 after November 18, 2004. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (703) 308-1044 or (571) 272-4820 after November 18, 2004. The fax number for this group is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, please go to <http://pair-direct.uspto.gov> or contact the Electronic Business center (EBC) at 866-217-9197 (toll-free).



**NINH H. NGUYEN**  
PRIMARY EXAMINER

Nhn  
October 25, 2004